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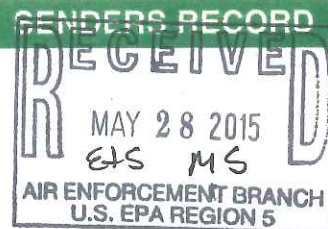
May 19, 2015

Via - Electronic Mail and Certified Mail

Molly Smith
Nicole Cantello
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency - Region 5
77 W. Jackson, Blvd.
Chicago, IL 60604

Certified Article Number

9414 7266 9904 2013 1902 30



Re: Response to Request for Information Pursuant to Clean Air Act: Thilmany LLC, Expera Specialty Solutions

Dear Ms. Smith and Ms. Cantello:

The purpose of this letter is to respond to Items 2-4 and 12-14 of the United States Environmental Protection Agency's ("U.S. EPA" or the "Agency") letter from George Czerniak, dated March 13, 2015, requesting certain information pursuant to Section 114 of the Clean Air Act concerning Expera Specialty Solutions' ("Expera's" or the "Company's") facility ("Thilmany Mill") in Kaukauna, Wisconsin (the "Information Request"). This Information Request was received by Expera on March 19, 2015.

The Information Request contains 34 items. Expera provided its response to Item 1 on March 27, 2015. On March 30, 2015, Expera received an extension of time to respond to the Information Request until May 19, 2015. On April 1, 2015, Expera requested additional time to respond to Items 5-11 of the Information Request due to staff availability before, during and after a planned maintenance outage in early April. This request for additional time was initially denied, but during a May 4, 2015 meeting with U.S. EPA, Expera received an extension until June 2, 2015 to respond to Items 5-11. On May 14, Expera received an extension to respond to the items related to the installation of ambient air monitors for particulate matter ("PM") until May 29, 2015 to enable the parties enter into an agreement providing an alternative to the requested monitoring.¹

General Objections

While Expera has made a good faith effort to respond to the Information Request, the Company has several general objections to both the form and content of the Information Request. These objections apply to the Information Request as a whole, not just Items 2-4 and 12-14, which are the subject of this particular response.

¹ Items 15-34 relate to the installation on ambient air monitors for PM. Some of these items do not appear to call for a specific narrative response. Expera had interpreted Items 15 and 16 as requiring a response that would also address other items.



Expera objects to the Information Request on the grounds that it is overly broad and unduly burdensome; it seeks information that is not relevant to the compliance status of the Thilmany Mill; it is vague and ambiguous; and it requires legal conclusions be made in response to it.

Expera also objects to the Information Request on the grounds that it exceeds EPA's authority under § 114(a) of the Clean Air Act in several respects. A federal agency is authorized only to request information reasonably relevant to the agency's enforcement and compliance interests and the demand for information cannot be too indefinite. *United States v. Morton Salt Co.* 338 U.S. 632, 652 (1950). The Information Request, however, seeks information well beyond the requirements of the Clean Air Act, and thereby exceeds EPA's authority under § 114 of the Clean Air Act. Additionally, certain questions in the Information Request seek information already provided to EPA including annual Title V compliance certifications and semiannual Title V monitoring reports. There is no basis for U.S. EPA to request that this information be provided a second time. Expera also objects to the Information Request to the extent that it attempts to create a duty to supplement this response with additional information—an attempt which exceeds the Agency's authority under § 114(a).

Expera also objects to this Information Request to the extent that it would require the submission of superseded and/or duplicative documents. Thilmany has interpreted the Information Request to seek the final version of documents where there are multiple copies.

Finally, Expera objects to the Information Request to the extent that it requests information that is subject to attorney-client privilege or other applicable privilege, or that constitutes attorney work product or is otherwise not discoverable.

To the extent that the questions are vague, ambiguous, overly broad or otherwise exceed EPA's authority under § 114(a), Expera has made appropriate and reasonable efforts to respond to the questions, and it has made reasonable interpretations of the questions.

In response to certain questions, Expera has also made specific objections. All of Expera's responses are made subject to and without waiving these general objections.

Scope of Response

Attached to this letter is information responsive to Items 2-4 and 12-14 of the Information Request.

Narrative responses to Items 2-4 and 12-14 of the Information Request are set forth below. Responsive documents that supplement these narrative responses are included as searchable Portable Document Format ("PDF") documents along with the electronic transmittal of this letter. These documents have been scanned for viruses using Microsoft Forefront Client Security. The document names include the applicable item number. Expera is also providing U.S. EPA with a hard copy of this letter and compact disc containing the responsive documents. The disc contains folders that identify the applicable questions by number. Where



documents are responsive to more than one question, the location of responsive documents is identified in the narrative response below.

Expera has made a diligent, good faith effort to provide documents and information that could reasonably be collected and produced during the short time-frame allotted for this response. Expera has determined that it has a substantial portion of the information requested. To the extent that information is not available, it is noted in the responses to individual questions. Expera reserves the right to supplement this response as necessary to the extent that it becomes aware of additional responsive information.

Information responsive to these questions was provided by Mark Nessmann. His contact information is provided below.

Specific Responses to Items 2-4, 12-14

- 2. Provide the following information for the time period of January 1, 2013 to January 1, 2015:**
 - a. Every bulk solid material handled;**
 - b. The annual tonnage throughput for each bulk solid material;**
 - c. The handling methods used to receive, store, and ship each bulk solid material;**
 - d. Identify which bulk solid materials are screened and/or crushed;**
 - e. Identify any dust controls, such as dust suppressants or tarp covers; and**
 - f. The maximum on-site storage for each bulk solid material.**

Expera objects to this question to the extent that the term "bulk storage material" is vague and ambiguous. The term could apply to any non-liquid material stored in bulk on site, both in buildings and outdoors. U.S. EPA, however, clarified that this question requests information related to solid materials that were stored in bulk outdoors and for which storage is not fully enclosed (i.e. not stored in containers).

Subject to and without waiving the general and specific objections set forth above and consistent with U.S. EPA's clarification, Expera has attached information responsive to this question. *See* Bates Labeled Documents EXP_000001 - EXP_000002.

Expera has interpreted this question conservatively to include certain materials that are stored inside buildings that have an open wall to facilitate removal of the material for disposal. As detailed in the attached response, slaker grits, green liquor dregs and wood knots are stored in this manner. Expera has also included wet wood ash, coal bottom ash and wet fly ash, all of which are stored in silos. These materials are dropped, in a wetted state, onto paved areas prior to being loaded into trucks for disposal. For this reason, they have been included.

Finally, Expera developed and is maintaining a fugitive dust control plan for its coal handling operations pursuant Wis. Adm. Code NR 445.10(2)(b). NR 445.10 is not included in the Wisconsin State



Implementation Plan. Expera has included the key elements of its fugitive dust control plan in its response to Item 2.

- 3. Provide copies of all documentation relating to any stack testing, internal audits, emission test runs, emission characterizations, visible emission testing or emission studies, conducted or attempted at the facility for the period of January 1, 2010 to January 1, 2015 (i.e. stack tests, emission studies conducted on the plant or on specific processes).**

Expera objects to this question as overly broad, vague and ambiguous. Expera also objects to the question in that it requests information that the Thilmany Mill already provided U.S. EPA in response to a February 4, 2011 information request.²

Subject to and without waiving the general and specific objections set forth above, Expera has interpreted this question to request tests or studies conducted of stack emissions, including visible emission testing.

As noted above, Expera already provided U.S. EPA with certain emission testing information covered by this request in response to an February 4, 2011 Information Request. As part of that earlier request, U.S. EPA agreed that Expera could provide summary information from each test report request in lieu of providing the entire report due to the voluminous nature of the reports. In response to this request, Expera has also provided summary data setting forth the test conditions and test results for compliance testing performed at the facility from January 1, 2010 to January 1, 2015 in lieu of providing the entire report. *See* Bates Labeled Documents EXP_000075 - EXP_000127. Expera has also provided raw data collected during a December 2, 2014 internal characterization of NOx emissions from the Lime Kiln. *See* Bates Labeled Documents EXP_000128 - EXP_000187. This raw data was not collected during steady state operation of the kiln since its purpose was to understand NOx emissions under different operations and the data has not been quality assured or otherwise validated. Finally, Expera has provided visible emission tests that are further discussed in response to Question 12. *See* Bates Labeled Documents EXP_000003 - EXP_000074.

- 4. Provide copies of your Operating Permit Number 445031190-P12 annual compliance certifications, semiannual compliance certifications and deviation reports from January 1, 2010 to January 1, 2015.**

Expera objects to this question to the extent that it requests information that the Company has previously submitted to U.S. EPA pursuant to Title V permit requirements.

Subject to and without waiving the general and specific objections set forth above and consistent with the clarification to the question provided by U.S. EPA, Expera has attached information responsive to this question. *See* Bates Labeled Documents EXP_000188 - EXP_000281.

² Particulate matter emission tests conducted at the Recovery Boilers 8 and 10 in November 2010 and at Boilers 9 and 11 in May 2010 were included in the Thilmany Mill's May 6, 2011 production in response to U.S. EPA's February 4, 2011 Information Request. Those documents were bates labeled THIL003050-THIL003058 in that production.

12. Provide copies of any visible emissions testing (Reference Method 9 or 22) conducted at the facility between January 1, 2013 and January 1, 2015, if not already include in Item 3.

Subject to and without waiving the general objections set forth above. Expera has enclosed information responsive to this request in response to Question 3 above. *See* Bates Labeled Documents EXP_000003 - EXP_000074. The enclosed testing information relates to Method 9 evaluations on the Recovery Boiler stack and the Boiler 9 and 11 stack.

On September 4, 2014, lightning struck and damaged the continuous opacity monitor (COM) for the Recovery Boiler stack. The COM was put back into service but on September 18, it failed its quarterly calibration error audit. This monitor was replaced with a new unit ordered on an expedited basis. As part of the mill's emergency backup procedure, Expera conducted daily visible emission testing on the stack to evaluate opacity while the monitor was out of service and for seven days after the monitor was replaced. For this stack, daily Method 9 testing is provided for the period September 19, 2014 - October 24, 2014.

The same lightning strike on September 4, 2014 also damaged the COM for Boilers 9 and 11. This monitor was replaced with a new unit ordered on an expedited basis. As part of the mill's emergency backup procedure, Expera conducted daily visible emission testing on the stack to evaluate opacity while the monitor was out of service and for seven days after the monitor was replaced. For this stack, daily Method 9 testing is also provided for the period September 19, 2014 - October 24, 2014.

All Method 9 readings were well below the allowable 20% limit.

13. Provide a complete facility-wide emissions calculation for the term period January 1, 2013 to January 1, 2015. Emissions calculations must follow any equations listed in Permit Number 445031180-P-12 and be submitted in an electronic excel document.

Expera objects to this question to the extent that the phrase "complete facility-wide emissions calculation" is vague and ambiguous. U.S. EPA clarified that this question requests the emission calculations used in the facility's annual emission reporting submitted to the Wisconsin Department of Natural Resources ("WDNR").

Subject to and without waiving the general and specific objections set forth above and consistent with the clarification to the question provided by U.S. EPA, Expera responds as follows.

WDNR utilizes an internet Air Reporting System ("ARS") for annual emission reporting. For criteria pollutants, Expera enters fuel usage, production inputs and the emission factors to be used in calculating emissions into the ARS.³ The program then calculates emissions from the individual process at the facility for which reporting is required. While the program allows Expera to review the calculated emissions, Expera cannot export emission calculation information in an excel format from the system. Expera was able to obtain

³ Emission information for hazardous air pollutants is provided directly by Expera. Where emission factors are based on stack testing, they are updated based on most recent testing.

from WDNR spreadsheets setting forth annual emissions for calendar years 2013 and 2014, but these spreadsheets do not include emission calculations. Based on discussions with U.S. EPA, the pdf printout from this reporting system is sufficient to respond to this question. Given the voluminous nature of the report printout from the system, Expera is providing pdf copies of the annual emission information received from WDNR for calendar years 2013 - 2014. See Bates Labeled Documents EXP_000282 - EXP_000332. The Annual Emissions Inventory is still under review by Expera, and the data has not yet been certified.

14. Provide a list of any complaints Expera has received from neighbors between the time period January 1, 2013 and January 1, 2015. The list should include the date the complaint was received, description of the complaint, and any corrective action taken by Expera to address the complaint.

Expera objects to this request as overly broad and vague as to the nature of the complaints referenced. Subject to and without waiving the general and specific objections set forth above, Expera has interpreted this question to seek information related to complaints that Expera has received from members of the public regarding emissions from the facility.

To the best of its knowledge Expera received three complaints from members of the public between January 1, 2013 and January 1, 2015. The nature of the complaints and the Company's response is outlined below.

- **Foam complaints at the lagoon - July 23, 2013 and April 10, 2014**

These two complaints were made by the same individual, a neighbor on the other side of the canal on the northeast end of the Mill property. The complaints concerned the presence of foam dust from the aerated wastewater lagoon that was blown from the lagoon on to his property due to windy conditions.

The wastewater lagoon is located on the northeast end of the mill property. The lagoon is aerated, and in 2010, the Thilmany Mill installed upgraded aerators to reduce energy. As a side benefit, the amount of foam on the top portions of the lagoon was generally reduced. Despite these improvements, there is generally some foam on top of the aerated lagoon. This foam can form a crust under certain conditions, and particles of dried foam can be blown off the top as dust when it is windy.

Expera effectively controls the foam to prevent crusting through operation of the aerators and with a permanent spray system used as needed during non-freezing times of the year. The wastewater operator is responsible for checking the lagoon foam each shift and deciding if the spray system is needed. Both of these complaints occurred when the spray system was not in operation. The July 23, 2013 incident occurred when the spray system was offline to perform maintenance. The April 10, 2014 incident occurred when the spray system was offline due to the continuing winter conditions that lasted into the spring. In Expera's experience, the crusting phenomenon that results in foam dust being blown from the lagoon generally does not occur except in warm, dry conditions.



The event that resulted in the complaints is atypical given the controls that Expera employs to address foaming. In both instances, however, Expera expeditiously addressed the neighbor's concerns and returned the water spray system to operation as soon as feasible.

- **Dust complaint following a Bin Vent Filter Malfunction - April 20, 2013**

The third and final complaint was made by a neighbor who resides north of the canal and across from the lime kiln building on the north side of the mill. The complaint was based on the observation of dust following a malfunction.

On April 20, 2013, the Thilmany Mill experienced a process malfunction involving the bin vent filter on the lime silo. This was a short term event. The bin filter was repaired. The Thilmany Mill met with the concerned neighbor and compensated him for cleanup of his personal property.

Conclusion

In conclusion, to the extent that documents produced by Expera in response to this request purport to make legal conclusions or use terms of art that may have legal significance, Expera does not concede that such terms are accurate or appropriate. Additionally, this production of documents does not act to authenticate such documents for the purposes of admissibility in any administrative or judicial proceeding.



Attached is the Certification of Responsible Official that is being submitted with this letter in accordance with your Information Request. If you have any questions concerning this response, please do not hesitate to contact Mark Nessmann at 920-766-8235.

Sincerely,

A handwritten signature in dark ink that reads "Lee R. Hammen". The signature is written in a cursive style with a large, prominent "L" and "H".

Lee R. Hammen
Plant Manager

Enclosures

cc: R5enforcement@epa.gov
Steve Myers
Mark Nessmann
Cynthia A. Faur, Quarles and Brady LLP



Certification of Responsible Official

I certify under penalty of law that I have examined and am familiar with the information in this letter. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to sections 113(c)(2) of the Clean Air Act and 18 U.S.C. §§ 1001 and 1341.

By: Dee R. Hammer

Title: MFC MANAGER

Date: MAY 19, 2015